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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY _____
DEPUTY _____

CAUSE NO. 1:19-CV-641-LY

V.

THE HON. DAVID PURYEAR, THE
HON. BOB PEMBERTON, AND THE
HON. MELISSA GOODWIN, IN THEIR
INDIVIDUAL AND OFFICIAL
CAPACITIES AS JUSTICES OR
FORMER JUSTICES OF THE THIRD
COURT OF APPEALS AT AUSTIN,
TEXAS; THE HON. KARIN CRUMP,
IN HER INDIVIDUAL AND OFFICIAL
CAPACITY AS PRESIDING JUDGE
OF THE 250TH CIVIL DISTRICT
COURT OF TRAVIS, COUNTY, TEXAS,
DEFENDANTS.

The magistrate judge filed a Report and Recommendation on October 2, 2019 (Doc. #80), recommending that this court deny the motions to dismiss, grant the motion to remand, and remand the case to the 345th Judicial District Court of Travis County, Texas. Defendant Crump's

Objections to the Report and Recommendation of the United States Magistrate Judge were filed October 16, 2019 (Doc. #81). Plaintiff's Response in Opposition to Defendant Crump's Objections to Report and Recommendation of United States Magistrate Judge was filed October 29, 2019 (Doc. #82). In light of the objections, the court has undertaken a *de novo* review of the entire case file and finds that the Report and Recommendation should be accepted and approved for substantially the reasons stated therein.

In her objections Defendant Crump asserts that the magistrate judge misapplies the futility-exception doctrine to the arguments raised in her motion to dismiss. Crump also argues that the magistrate judge erroneously relies on federal district court opinions from the Western District of Texas. In response, Plaintiff Mary Louise Serafine argues that the magistrate judge's application of the law and analysis are proper. The court agrees with the magistrate judge's conclusion that this court lacks jurisdiction and should be remanded for a determination of whether Serafine lacks standing in state court. Therefore, the court will overrule Crump's objections.

IT IS THEREFORE ORDERED that Defendant Crump's Objections to the Report and Recommendation of the United States Magistrate Judge were filed October 16, 2019 (Doc. #81) are **OVERRULED**.

IT IS FURTHER ORDERED that the Report and Recommendation of the United States Magistrate Judge (Doc. #80) is **APPROVED** and **ACCEPTED** as set forth herein.

IT IS FURTHER ORDERED that Defendants Justice David Puryear, Justice Melissa Goodwin, and Justice Robert Pemberton's ("Defendant Justices") Motion to Dismiss Plaintiff's Amended Complaint (Doc. #29) is **DENIED**.

IT IS FURTHER ORDERED that Defendant Karen Crump's Motion to Dismiss Plaintiff's First Amended Complaint Pursuant to Rule 12(b)(1) (Doc. #31) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff Mary Louise Serafine's request for attorney's fees is **DENIED**.

IT IS FINALLY ORDERED that the case is **REMANDED** to the 345th Judicial District Court of Travis County, Texas.

SIGNED this 14th day of November, 2019.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE